SELECT COMMITTEE ON CONSUMER CREDIT

Hearings held at Parliament Bldgs. Toronto, Ontario, on Monday, 18th November, 1963

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---UPON RESUMING AT 2:05 P.M., NOVEMBER 18, 1963

THE CHAIRMAN: First of all we are going to hear from Mr. R. J. King, who is Manager of the Mortgage Department of the Chartered Trust Company. I believe Mr. King has prepared a brief which has been distributed to each of the members. Is that correct? If you wish to make any preliminary remarks, Mr. King, by all means do so, or if you want to read your brief -- whichever you prefer.

MR. KING: Well, Mr. Price, this is not exactly a brief. It's a letter I wrote in reply to a letter I had from your Committee asking the cost of borrowing with respect to mortgages from the Chartered Trust Company or from a lending institution. This is the letter I sent back to you.

"The Chartered Trust Company is in the mortgage lending field in both N.H.A. and conventional first mortgages. The N.H.A. rate is of course, established by the Central Mortgage and Housing Corporation but the conventional rate fluctuates due to availability of mortgage money in the market and local competition. The money we place in mortgages is obtained from the sale of Investment Certificates and deposits. During the past 10 year period conventional mortgage rates have fluctuated between 4½% and 7½% on residential properties and as high as 8% on some industrial and commercial loans. Interest is calculated on the outstanding monthly balance payable at 6 month intervals not in advance.

"We make mortgage loans on improved

real estate up to a maximum of 66-2/3% of appraised value on loans made for Company and Estate funds. We have not entered -- Chartered Trust has not entered -- into any arrangement to make 80% loans in a general way but we have an agency agreement with Aluminum Company of Canada to make first mortgage loans up to 80% of value on Alcan Homes. On these loans we advance 66-2/3% of value and Alcan advances 13-1/3% making an 80% loan. These loans are made at ¼ of 1% above the prime residential interest rate and are all on a 25 year term and amortization basis.

"The costs to the mortgagor in obtaining a mortgage include supplying us with a Survey, our appraisal fee and legal costs in accordance with the tariff of the local County or District Law Association. Our appraisal fees are based on $2.00 per thousand of the amount of the loan but the scale may be reduced on larger loans. All finder's fees (introductory commissions, that is) and cost of Credit Reports are borne by Chartered Trust Company."

THE CHAIRMAN: Would you add anything to that? Do you wish to add anything to your letter?

MR. KING: No, sir, there is nothing I can add.

THE CHAIRMAN: Mr. Sedgwick?

MR. SEDGWICK: I have only one or two, Mr. Chairman, and they are, I am afraid, conventional. Mr. King, in the last paragraph on page 1, you mention that the loans that you make by agreement with the Aluminum Company are all amortized over a 25 year term.

As to the loans that your Company makes themselves, that is the ordinary person, are they ordinarily amortized or is there any balloon at the end of any fixed period -- five or ten years?

MR. KING: They are all amortized, Mr. Sedgwick, there is no balloon. They could be for a different period of time than 25 years but they are all amortized.

MR. SEDGWICK: That is, if more is paid every six months, they would pay off sooner?

MR. KING: Oh, yes.

MR. SEDGWICK: You amortize principal and interest so that there is not a substantial amount due at the end of the fixed period?

MR. KING: That's right. There is no amount due at the end of a fixed period.

MR. SEDGWICK: Could we take it that the practice that you outlined in your letter is typical of the practice of the other trust companies?

MR. KING: I think it would be safe to say that most of them follow along the lines as described here, yes.

MR. SEDGWICK: Yes. And in your case, I take it from your letter, the actual lender is the trust company. That is you borrow on your credit and then the mortgagee borrows from -- the mortgagor rather -- borrows from you, is that right?

MR. KING: Yes. We do have some funds from our estates and trusts and agencies.

MR. SEDGWICK: That's what I had in

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mind that as to those funds do you follow the same principles of amortization?

MR. KING: Oh, precisely.

MR. SEDGWICK: Those are all my questions, Mr. Chairman.

THE CHAIRMAN: Mr. Irwin?

MR. IRWIN: Mr. Chairman and Mr. King, as a matter of information, does the Aluminum Company of Canada guarantee in any way the loan or do they issue security in regard to --

MR. KING: Yes. If a loan goes in default, the Aluminum Company guarantees our first portion of the mortgage.

MR. IRWIN: 66-2/3%?

MR. KING: Yes. We have the option of asking them to buy us out of our portion of the mortgage or we can take over their secondary position, in each case. It is our option.

MR. IRWIN: That would lead to a further question as to why the 1/4 of 1% rate above prime residential rate for those particular loans?

MR. KING: The 1/4 above 1% prime -- of the prime rate -- goes to the Aluminum Company.

MR. IRWIN: I see.

MR. KING: The Chartered Trust Company takes the prime rate on these loans.

MR. IRWIN: So on your 66 2/3% you get a return equal to the prime residential rate. On the 13 1/3 portion of the loan they get the prime rate plus 1/4 of 1%?

MR. KING: Well, they get 1/4 of 1% above the prime rate on our portion plus on their own portion.

MR. IRWIN: What rate of interest would the Alcan be getting then on their actual advance?

MR. KING: I believe it is 8.3%.

MR. SEDGWICK: May I add one question to that. So that, in effect, the Alcan portion of the loan is a second mortgage and it carries roughly second mortgage rates?

MR. KING: Well, it matches the first mortgage.

MR. SEDGWICK: I know that, but --

MR. KING: In effect it is a second mortgage and I think it is quite a low rate of interest for a second mortgage.

MR. SEDGWICK: Yes, I believe it is. We have been told that 9 is a low rate for a second mortgage.

MR. KING: And I think the reason they are interested in this proposition is to sell aluminum, not to lend money.

MR. SEDGWICK: To sell Alcan houses.

THE CHAIRMAN: Mr. Lawrence?

MR. LAWRENCE: Mr. King, one of the Toronto trust companies regularly charges $200.00 no matter what the size of the loan is, for fees or valuation fee or bonus -- Chartered does not do this as a regular custom?

MR. KING: No, I have not heard of

[illegible]

[illegible]

[illegible] [illegible]

[illegible]

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[illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible]

that at all. I don't know just what you are referring to that they charge $200.00 -- we have no set fee.

MR. LAWRENCE: You are the first trust company representative, I think, to come before the Committee so these things aren't directed to Chartered as an individual company. But some of us have been intrigued by the British practice where you establish loan and trust company societies, which in effect are trust companies, I think, and they advance, in a great many cases, up to 90, 95% of the cost of the new house by way of a first mortgage. Why is the trust company practice here in Canada always been never to advance more than 2/3rds of the purchase price of the house?

MR. KING: Well, it hasn't always been. It is only in recent years they have been permitted to loan 2/3rds. It was 60% up to a few years ago.

MR. LAWRENCE: This is federal legislation?

MR. KING: Yes.

MR. SEDGWICK: It used to be 50%.

MR. KING: Yes, at one time.

MR. LAWRENCE: And are you governed now by federal statute in that you can only lend up to 2/3rds?

MR. KING: Yes, we are.

MR. LAWRENCE: Has the Company, as a matter of company policy, ever considered making any application to increase this at all?

MR. KING: We have considered it, that's all I can say about it.

[illegible]

MR. LAWRENCE: The thing in the back of some of our minds may be that if it works in Britain why in the world wouldn't it work over here? It would be a way to get rid of the second mortgage field in the way of new houses.

MR. KING: Well, I don't know how it works in Britain but it could be that it's insured.

MR. LAWRENCE: Yes.

MR. KING: So far as I know no insurance company in Canada will insure mortgage loans. I don't know of any. There is such a thing in the United States of insured mortgage payments.

MR. LAWRENCE: Is it -- perhaps it isn't fair to ask you your own personal opinions on these things but there is a great many years experience here and we are trying to find the answers to some of these things. What is your own opinion on the availability or whether there would be any use in having mortgage insurance here.

MR. KING: I think it would be a fine thing. I think it would be a breakthrough because we -- if we could have mortgage insurance in Canada.

MR. LAWRENCE: There is another growing trend, especially in Ontario, with trust companies lately and that is the emergence of the bank as far as gaining control of trust companies are concerned. Chartered Trust -- in effect the control of Chartered Trust now resides in a chartered bank, is this not true?

MR. KING: Yes.

MR. LAWRENCE: Would you be willing to

tell the Committee whether the trust company has normal mortgage operations using bank funds for this purpose?

MR. KING: I don't get your question.

MR. KING: Well, banks must find it useful because so many of them are doing it. Trust companies must find it useful because so many are getting into the field, to be taken over by banks. This is a fairly new development in the Canadian trust and banking field. Now, is one of the reasons for this, do you know, the fact that the bank can make available to the trust company to loan mortgage money whereas in the past the bank hasn't been in the mortgage field at all?

MR. KING: I can't answer that. I don't know about other banks or other trust companies.

MR. LAWRENCE: Well you don't have to answer --

MR. KING: We have an arrangement with the Bank of Nova Scotia with respect to mortgages.

MR. LAWRENCE: That's what I am driving at. Does the Chartered Trust in its normal, conventional mortgage field use any Bank of Nova Scotia funds?

MR. KING: Oh, no, no.

MR. LAWRENCE. Thank very much.

THE CHAIRMAN: Mr. MacDonald?

MR. MACDONALD: Yes. For this insurance angle, are you aware of any reasons as to why insurance companies have not moved into the field of insuring mortgages?

MR. KING: I'm really not aware of any.

The first thing that would come to mind -- I'm not sure of this though -- all you are trying to make them do is insure the upper portion of the mortgage, beyond the 2/3rds, and they may feel -- I remember talking to an insurance man about this -- they may feel that mortgages can decrease all across the country at one time, whereas if they are insuring for fire or other types of insurance you have claims spread out, whereas mortgages could conceivable -- you could be paying out on every mortgage at one time in Canada, if the real estate market or the mortgage market fell apart. I don't know. I've never spoken to an insurance official about this.

MR. MacDONALD: All you are, in effect, saying is that if it were done it would be best done, it would be most safely done, by a company that's in a number of insurance fields. But there are many of them that are in many fields now, why --

MR. KING: I don't mean it has to be a company that's in a variety of fields in the insurance business. I would think that if some insurance company had started this twenty years ago they would have a marvelous record of losses, but it is possible that you could have a good many claims all at once if you had a bad real estate market such as we did in the thirties.

MR. MacDONALD: Well, is there any reason inherent in Canada as to why they should be a bad record as compared to the U.K. where insurance of mortgages is, I understand, a practice?

MR. KING: No. I wasn't aware of it. I

[illegible]

am aware that it is done in the States.

MR. MacDONALD: To be very frank, Mr. Chairman, I wasn't aware of any of this until my friend asked his question, but it struck me as a very interesting point.

MR. KING: I think it is a very interesting point myself. As I say, it would be a breakthrough in the mortgage lending field if these things could be done.

MR. MacDONALD: Would it like result, as far as the consumer is concerned, in a greater security as far as the lender is concerned and, therefore, a lesser rate?

MR. KING: Oh, yes. I would think, just offhand, if the secondary portion of these mortgages could be insured then the second mortgage would become a first mortgage, in effect, as far as rate is concerned.

MR. SEDGWICK: Plus the insurance premium?

MR. KING: Yes, plus the 2% or whatever they --

MR. MacDONALD: Have we had insurance companies before us, Mr. Chairman? We haven't had insurance companies?

MR. PRICE: No.

MR. MacDONALD: This is a rather interesting angle. If all 9 to 12% could be brought down to 7% plus the insurance cost, this is a new possibility.

MR. SEDGWICK: Mr. MacDonald, some of

[illegible]

the insurance companies are, I believe, (rest inaudible)

THE CHAIRMAN: Any further questions, Mr. MacDonald?

MR. MacDONALD: I suppose just one point. Maybe some association of insurance companies might be the most appropriate body to ask?

THE CHAIRMAN: Yes, we will pursue this matter.

MR. MacDONALD: No, I have no further questions.

THE CHAIRMAN: Mr. White? Mr. Belanger?

MR. BELANGER: (First part of question inaudible). Are you the only company that deals with the Aluminum Company on behalf of --

MR. KING: Yes, we are at this moment, Mr. Belanger.

MR. BELANGER: You are the only one? -- that has some sort of arrangement between your company and --

MR. KING: Yes, that's right.

MR. BELANGER: (Inaudible)

MR. KING: It's a new venture for us. We have only been in this field for a year and a half. We expect not more than 5%, projecting it now, not more than 5% of our business will be --

MR. BELANGER: (Inaudible)

MR. KING: Oh, no, it's throughout the country. It goes from Vancouver to Montreal.

MR. BELANGER: (Inaudible)

MR. KING: The purpose is to create an

80% first mortgage and therefore eliminate the second mortgage which makes the houses more saleable and the Aluminum Company feel that from their standpoint, if they can sell that much more of them, I mean their houses, they are going to go into the mortgage field. As I said before, they are not anxious to be in the mortgage field but they want to sell aluminum and they will underwrite the second 13 1/3% of these mortgages. It's a distinct advantage to the purchaser of these houses.

MR. SEDGWICK: In what respect is that an advantage?

MR. KING: Well, he has a lower interest rate to pay. If he was carrying a first mortgage for 66 2/3rds and a second mortgage for 13 1/3, his carrying charge would be much higher, substantially higher, and this way he has one mortgage to contend with at a lower interest rate. So it makes the properties quite a bit more saleable. You can buy a very nice -- these are not cheap houses, they are medium priced, $22,000 to $30,000 homes with 20% cash down, no second mortgage.

THE CHAIRMAN: Where are these homes located?

MR. KING: Well, in Toronto there are two builders building them. In the west end it is Edmund Peachy on Highway 27 and in the east end it's Arthur Blakeley. He's building in a couple of locations -- Henry Farm right now. And then they are also being built in two locations in Montreal, Durfie is one and I

[illegible]

don't know the other. They are being built in two locations in Calgary and various parts of Vancouver, and also London, Ontario.

THE CHAIRMAN: Mr. Reilly?

MR. REILLY: Yes. Mr. King, one of the things that we are trying to do in this Committee is to find out if there are any hidden charges. I notice in your letter that you say that there is an appraisal fee of $2.00 per thousand and that all finder's fees are absorbed by the Company. Are there any additional charges whatsoever when you lend mortgages in addition to the mortgage interest rate and the charge for appraisal. Is there a legal fee, for instance?

MR. KING: The legal fee is paid by the borrower.

MR. REILLY: So it actually is an added cost to the borrower?

MR. KING: Yes. I mentioned that, I think, in the letter.

MR. REILLY: Are there any other costs except the legal fee and the $2.00 per thousand and the interest rate?

MR. KING: Well, he has to supply us with a Furvey if he hasn't one in his possession. That would be all.

MR. REILLY: Legal fee and Survey. One thing I think we should clarify, and Mr. MacDonald has pointed out in this insurance business, that there might be some savings to the borrower if an insurance company would insure a loan. It's been my observation that

[illegible]

actually there is no savings to the borrower in the practice that is used in the United States if, in most instances, they apply this insurance only to new homes or nearly new homes, and actually what it does is protect the lender and they are charging an extra cost to the borrower in order to have the insurance. I thought perhaps that point should be clarified here. I don't think it is any particular saving to the borrower.

MR. MacDONALD: Well it depends, if I may just put the point here -- if the first mortgage is 7% and the second mortgage is 12%, you can get your money, in effect, all in a first mortgage with insurance for the second mortgage portion of it. That's something less than 5% increase, then you are saving, it's as simple as that.

MR. LAWRENCE: Yes, except in most instances they won't give the large mortgage to take over the first and second and insure it for that amount.

THE CHAIRMAN: Mr. Irwin?

MR. IRWIN: Mr. Chairman and Mr. King, something was said a minute ago -- in regard to these homes in respect to which these 80% mortgages are placed with the cooperation of the Aluminum Company, is there some understanding as to the content of aluminum used in those homes? It wouldn't be available, let's say, to the home -- (last word inaudible)

MR. KING: No. The Aluminum Company has possibly 15 or 20 model homes which can be built under this plan and those are the only ones that would suffice as far as they are concerned. They qualify that --

conventional houses wouldn't.

MR. IRWIN: They would probably be homes built with aluminum siding or something like that?

MR. KING: Yes. There is a good deal of aluminum that goes into these homes.

THE CHAIRMAN: How long have you been with the Chartered Trust Company?

MR. KING: Twenty years.

THE CHAIRMAN: Were you in this business prior to that? I mean the same type of business?

MR. KING: No, I wasn't. I was in the real estate business.

THE CHAIRMAN: Have you any other suggestions you would like to make to the Committee about the mortgage business generally that might be an advantage?

MR. KING: I have nothing, I don't think, to add at this time.

THE CHAIRMAN: Any further questions? Thanks very much, Mr. King, for being with us today.

MR. KING: Thank you.

THE CHAIRMAN: Is Mr. H. W. Bender here?

Mr. Bender, I believe your brief has been distributed to all members of the Committee. Mr. Bender is President of the H. W. Bender Limited. He is in the real estate business and he is a graduate in law and economics in Germany and has been in the real estate mortgage business for some 22 years. Did you wish to

make any preliminary remarks?

MR. BENDER: Yes, I wish to make some preliminary remarks because it may put some things into the right perspective, and to also give some part of the history of this bonus plan, which is the subject of this brief. I am glad (next part inaudible) because I read over the weekend that the Committee of Social Work and their Services prepared a brief to the Board of Control to ask the Board of Control to permit the extension of N.H.A. (next part inaudible) -- not because the answer to this problem lies in an extension of N.H.A. but because I read that there is at least some growing public awareness that there is something wrong with the financing of homes which we are concerned with. I would give it a title, I would call it Sins of Mortgage Credit rather than Sinners of Mortgage Credit. Also there are wrongdoings and final punishment that makes very good newspaper reading but I feel -- and I have been 22 years connected with this game and I think I know most of the people involved in it -- I feel there are not enough (   ) in this game, much more than in any other enterprise (   ), and secondly I feel that in the system of free enterprise where capital is one of the most competitive merchandises, no individual can, for any length of time, exert any monopolistic tendency or can write his own ticket on the price of capital because of this fierce competition in the field. Therefore, I feel that we should concern ourselves with the question of whether there is something wrong with the credit system with regard to older homes, with regard

to the fact that many people may not be aware of,that interest rates have dropped considerably over the last two or three years, I think almost one-third. And all what actually has been done by the government. I say this with deepest respect and sincerity was the time they placed the Mortgage Brokers Act was an accomplishment, to my humble opinion, that makes the mortgagor feel more miserable than before because it's pointed out in black and white how much he has to pay in interest and how little he has to pay in principal. What we should try is to find ways to guard ourselves against a recurrence of those rates which can happen in any given economical situation and even to decide whether we can find means and ways to bring present interest rates, which have dropped already considerably, even down to a lower level.

I started to concern myself with this problem about 10 years ago when two new words were added to the English vocabulary, mainly the two words discount and bonus mortgage. These were unknown to any average mortgagor and when subsequently a new species was created and headed for society, called the mortgage broker. We all knew mortgage brokers before negotiated conventional loans but he was a special species created to find people who want to sell bonus and discount mortgages and find people who wanted to buy them (rest of sentence inaudible). I prepared a typical statement, a sample of a cse of a loan which had to be financed by private capital. A house which was denied conventional credit ([illegible]) or only credit was possible for a very negligible

degree -- either because it wasn't solid brick or it was not a conventional garage or it was not detached or it had no side entrace or the cellar was (   ) or it was situated in a district which wasn't declared desirable for conventional loan companies, although many of those kind were put into those companies and provided (rest of sentence inaudible). This house had to be financed therefore completely by the public. Now I took a very conservative case here which can be shaded in any way or form to down payment, lower down payment and what have you, but this is a very conservative case where a dealer bought the house, such a house, for $6,000 cash -- maybe a little bit below the physical value, but the owner didn't know any other way to get his full cash and the dealer came with full cash. And he had in mind (next part inaudible) and he had already gained some experience, and he put the price of it up to $10,000. Now this sample shows that of more than $4,000 (inaudible) -- the poor dealer only made only a net of $650 dollars. Now if we analyze it, he took back two mortgages -- a first mortgage of 6500 and a second mortgage for 2500 -- totalling to 9,000 and $1,000 cash. He has to sell those two mortgages because he didn't want to become a mortgage investor, he wanted to get his cash out. So he found one man through a mortgage broker who paid him for the$6500 -- he paid him $5500 and he found another man who paid him 1600 for 2500. Now, those mortgagors were not all devils either because -- the mortgagees -- because the first mortgagee was already up to 90% of the cash value, 5500 cash on a house which was sold for

$6,000 and the (rest of sentence inaudible).

Besides -- and I want to say in all fairness, not because the black and whites -- besides in a rising market of real estate the investor has just a choice of either to make a profit in mortgages or to buy property. (rest of statement inaudible)

The mortgage broker -- this is one of his services -- he may look up 20 or 30 people before he found one who wanted to buy the mortgage, has to take him back, negotiate with the vendor. Now nobody of the lawyers here present will deny that even a lawyer ( ) and if there was a lawyer who had a client himself, he would charge another x amount for the recommending this mortgage to his client, collecting it for him and so on. Anyway, the whole -- we can say that everybody who was busy in the act did something for his money, but what a detour is caused in times of computors and automation and standardization and other theories devised to save costs in mortgage credit. Now I was, myself, rather attracted to those kinds of investments when I started buying those mortgages myself. I had no disagreeable relations to the mortgagor because I got into the act after the transaction and he didn't care whether he pays his mortgage to Mr. Jones or Mr. Bender and I thought it would be a good idea to go to Switzerland and sell the scheme to Switzerland investors. Because I was once a specialist in mortgages and foreclosure laws I would be able to show them the legal differences and so on. They are very careful people, these Swiss. And (rest of sentence inaudible) -- the

money started pouring in and I was suddenly caught with the administration of about 700 mortgages -- good for any smaller trust company, I guess -- because I had to (   ) and because I was able, unlike other brokers who just negotiate, to see the human hardships. And I also saw the predicament in which those people would find themselves when those mortgages become due.

I would like to mention something -- if you look at the statement how nonsense can make nonsense -- this inflation of prices in the older houses brings the price relation very close to the price of new N.H.A. financed bungalows, created a completely new demand suddenly for N.H.A. bungalows, which didn't exist before and fooled the government in this regard to the actual overall need for new bungalows. The old homes were left and the others were preferred because they had 50 foot lots, they had one mortgage for 25 years instead of two mortgages for 5 or 3 years and so on. And that led to the over-production in metropolitan cities (part of statement inaudible) led to overproduction of 86,590,000 units idle with a rental loss of $12,324,000. You see it's a big subject, I can't go into it today, but this is what N.H.A. can do.

Now after I visualize what may happen to those mortgagors I went to -- when the mortgages come due and when those investors want to have their whole (   ) established -- originally it was for 15 when the mortgage came due they didn't want to let it stand for 7. And the dealer had to (rest of statement

inaudible).

I prepared a brief (next part inaudible) and I took it to -- in this building, I forgot his name -- and I suggested that the trust company needs specializing, specializing on those neglected credits and show sell trust certificates over the counters of Canadian and German banks at a rate that is guaranteed by the Province of Ontario, (rest of statement inaudible) the income legitimately would go out of the country not as it was before the foreign capital came in took all the gravy. But this gentleman I remember told me,don't ask me for getting guarantees, we are overextended, we give guarantees to ( ) in New York and to ( ). So this was -- I don't think we can reconstruct because the initial markets have changed differently. But at that time it would have saved a lot of human hardships if it would come in time.

Then I had something to do in Ottawa and I went to see N.H.A. Central Housing and I pointed out the dangers of N.H.A. which I have put here in another article, and the distortion of prices and the great imbalances between secondhand and new merchandise. And I had at that time the idea that extension of N.H.A. for older homes would be a good idea. But I don't want to take any credit for it, I had the idea before anyone, before anybody else had it, but I have changed my mind and as I pointed out in this brief, (rest inaudible)

I got very frustrated and just confined myself to literary outburst and I took most of these ideas and a few new ones into this brief, which

I shall read with your permission. Maybe when something is not understandable, either by my having German accent which I haven't lost yet or because I didn't express myself very clearly, some people can interject.

I tried in this brief to find a formula (rest of sentence inaudible) -- to increase supply and reduce demand.

"In any system of free enterprise, the price of private capital depends solely on the same factors as the price of any other competitive merchandise, namely upon supply of demand and the cost of production. Any usery laws, which try to enforce price ceilings ignoring or counteracting those price components will either scare capital away or will provoke loopholes through which Capital can find its way back at its own terms."

I remember a joke in the Old Country in the First World War -- Who is the greatest magician? The answer was the Price Commissioner because as soon as he appeared everything disappeared. You know yourself what people can do to get around controlled rentals --

"High interest rates do not present a legal but a strictly economical problem. Only through changing the pattern of supply and demand and reducing the cost of Capital, can we obtain better conditions in our Mortgage Credit.

"How can we reduct demand for private capital? While with regard to the smaller industrialist, farmer or merchant our mortgage credit leaves likewise much to be desired, this brief shall be primarily

concerned with the Mortgage Credit for older homes of the lower and middle class income groups. Private Capital was only able to take over this field because of the steadily increasing withdrawal of institutional Capital from the financing of such older properties during the last two decades. The post-war boom years have opened up opportunities to our Conventional Lending Institutions, which they never had before in form of unloading their funds in huge amounts at low administration costs for the financing of Shopping Centres, Subdivisions, Apartment Buildings, Motels, Bowling Alleys, which can feed, house and entertain a population, which Canada may not have reached within another decade." And I call it the New Addiction (rest of aside inaudible).

"The Financing of workingman's older homes, where a dependable flow of mortgage credit at reasonable rates is of great social and economical importance, was left more and more to the Private Money Lenders at any price the market could bear. Looking back to those Boom Years, present high interest rates can be considered as bargain rates in comparison to the prices at which Private Capital was gladly accepted (and I emphasize it was gladly accepted) by the mortgagors at that time. However, neither the general public nor the Government paid much attention to that situation for the simple reason that even the highest interest rates were easily absorbed through high wages, steady employment, good rental possibilities and last but not least, high re-selling profits of the property owners due to sharply rising real estate values. It is, there-

fore, only fair to say, that any high profits made by mortgage lenders during those years merely just compensated them for the profits they could have made by purchasing instead of mortgaging those properties. We also may learn from these years, that any legislation of interest rates can become very unrealistic as it is not able to consider the fluctuations of currency and real estate values. (Aside inaudible)

"We can also not overlook the fact, that the face value of many private mortgages, stuffed with bonuses, respectively discounts, exceeded in many cases the physical value of the properties in view of the sudden rise of prices through the unprecedented influx of immigration, with the final result of heavy losses after the honeymoon was over. The story of mortgage credit is, therefore, by no means a black and white one. This, however, does not change the fact that Private Mortgage Capital by its very nature can not be considered a dependable source for long term mortgage credit because it will pull out from the mortgage market as soon as it fears inflation, respectively any increase in real estate values and will only return to it in time of stationery or depressive economy with no other attractive investments elsewhere. Institutional Capital on the other hand, does not need to concern itself to the same degree with such fluctuations. Its liabilities are more or less limited by the interest rates, guaranteed to their policy holders, owners of their trust certificates and other depositors, who in turn become the actual losers through any adverse surrency changes. Some European

countries with greater experience in this field have found various ways of overcoming this weakness in investments of this type through inserting gold and other clauses in their policies, certificates and mortgages. At any rate, with and without such efforts to broaden the market for such investments, Institutional Mortgage Capital must be considered as the ideal source for long-term mortgage credit. Our various levels of Government from which Credit Institutions obtain their Charter, must find means and ways to enforce a sufficient portfolio at all times for the cultivation of mortgage credit to older homes regardless of its location or structure as long as it offers decent shelter for the lower income groups." I didn't intend to be dramatic about this. "One hardly has to point out the tremendous importance of the steady availability of conventional credit for the financially weaker mortgagor as he only then can use his limited consumer power for the daily necessities of life instead of wasting it on excessive capital obligations.

"It must be clear by now to everybody, that in a depressive economy such capital obligations can lead more and more to a conversion from genuine purchase power into borrowed purchase power on the part of the lower income groups and to the very undesirable state of Capital Richness and Money Poverty, which signifies our present state of economy." If anybody wants to come to my office and see one minute a man coming in with $100,000 in his pocket and the next minute somebody comes to make his mortgage payment, then he will know what I mean by Capital Richness and Money Poverty.

"As soon as Institutional Capital will be made aware again of their social duties toward the lower income groups, whose dimes and dollars contribute greatly to their capital power, private capital is bound to become permanently competitive with institutional rates and will not be put into any monopolistic position. The introduction of an Assigned Risk Plan as found in our present Automobile Insurance System or the creation of a specialized Government Bank (aside inaudible) for such mentioned credits would be the alternative, however, much less desirable solution for gaining greater independence from Private Mortgage Capital.

"How can we broaden the market for secondary mortgage financing? While there is temporarily an abundance of private first mortgage capital available competing eagerly with conventional rates in the field of selected risks in lieu of other more lucrative investments, there is still a great necessity for establishing a broader market for secondary mortgage financing, which under our present laws can only be provided through private capital. There are, however, many reasons why private investors lose their appetite more and more, for secondary mortgage credit.

"Lack of legal protection. Second mortgages are at present rather poorly protected against the legal actions by the first mortgagee. The first mortgagee does not need to give sufficient warning to the second mortgagee as soon as the mortgagor gets into default of payments under the first mortgage. (Well, I found that institutional companies with whom I put

the records in cases where we are holding the second, mostly have the courtesy of letting me know the time that there is a problem but there are many private mortgagors who you call up and he wouldn't let you know, he just forecloses it). "Only after considerable legal expenses are incurred through the commencement of foreclosure proceedings, will the Court finally order a notice to the second mortgagee to pay up all arrears and costs within 10 days. If he cannot raise the necessary funds within such a short time, he is faced with further Court and Lawyers costs and must pay off the whole accelerated capital within 6 months. But the real danger for the second mortgagee lies, however, in Power of Sale Proceedings by the first mortgagee in which case no notice has to be given to the second mortgagee and the property can be sold at any "reasonable price" without the knowledge of the second mortgagee. (Aside inaudible) It is obvious that such lack of legal protection is sufficient reason for any conscientious lawyer to advise his client against such investments. Many second mortgagees have also incurred considerable losses through fraudulous misrepresentations by the Assignee or his Agent as to the true sales price and cash down payment by the mortgagor when purchasing the property. (Aside -- it is inconceivable what the human mind can cook up to establish a higher value of the second mortgage than -- rest inaudible). For instance, a sales price of $12,000 with a down payment of $2,000 is represented while the actual sales price was only $10,200 and the actual cash down payment was only $200, in which case the second

mortgage would have never been acquired because of the poor equity of the mortgagor. Very few mortgagees are experienced enough to insist on sworn affidavits from the vendor or the mortgagor, than an amount of $2,000 actually changed hands without any side agreements, nor are they aware that they have otherwise no legal cause of action against any party involved. My recommendations to the Department of Insurance several years ago to impose similar penalties upon Real Estate and Mortgage Brokers for fraudulous misrepresentations of the actual value of the second mortgages as provided for the sale of other securities were unsuccessful. The authorities took the strange attitude that second mortgage investments are only meant for people who know what they are doing and should not depend upon any representations from any party whatsoever. Such conception completely ignores the important fact, that second mortgage credit is here to stay and that we have to make it respectiable and that only the broadest possible market with the highest legal protection can keep prices at a reasonable level. In this connection, also a revision in the present tax laws, which no longer consider discounts as capital gain in contrary to the purchase of shares and bonds, might be recommended in order to increase the attractiveness of such investments."

Now, the next thing deals with how can we reduce costs? "There is some peculiar feature in the cost structure of mortgage credit inasmuch as the cost increase proportional with the decreasing amount of borrowed dollars and years of repayment. If, for instance,

the loan is only $1,000 for a period of only one year, the total cost for legal, finder fees, inspection, brokerage, etc. could go very well over 28% without being called excessive. The reason being that there are several items in the cost structure which do not change with the size of the loan. For instance: Minimum legal fees $35.00, Disbursements including any discharges necessary $15.00, Inspection fee $15.00, Minimum Brokerage fee $75.00, brings the loan cost up to 14%. If for instance, such small loans are requested subject to a high N.H.A. mortgage (and they come every day, say $1,500 down and want a second mortgage for $1,500), leaving very little equity for the owner, an interest rate of 15% could be justified, meaning a total cost for the one years' loan of 29%. I want to submit these calculations in all fairness, as the public ire seems to be aroused by the high cost for small loans.

"I actually would not have any suggestions how those various cost items could be decreased by any worthwhile degree. I have, however, various suggestions regarding the reduction of cost for larger loans and will mention a few highlights at this point.

"1) Title Insurance (everybody raves about Title Insurance, the only thing is about it you can't transfer it -- it's not good for the next man, he is not protected). Title Insurance should be made transferable to any new mortgagee.

"2) A decreasing scale of brokerage and legal fees for loans over $10,000 as neither party is involved in a proportionally higher amount of work.

"3) Reduction of Land Title searches because of lesser work and responsibility.

"The salvation for the high cost of small loans lies, however, in a different direction.

"Banks must enter into the field of secondary mortgage credit. There is no organized second mortgage market at present in Canada. There is no mortgage exchange somewhere downtown. (There was one but it was short-lived). There are only individual Brokers scattered around, who through continuous costly advertising try to make themselves known to the public. There are also recently a few companies in existence spending considerable funds on lavish offices and advertising their "honest" interest rates of 12% plus expenses. But I do not predict any permanent future for them, as they are thriving on the temporary abundance of syndicated funds at rates of about 8 - 9% yearly, leaving a margin, which may not even cover their cost of operation including unavoidable losses. (Because there is much more administration work on smaller loans than on bigger). Another drawback of such standard interest rates of 12% is that many loans lying well below the limits of 80% of the value, would deserve according to their much lower risk a much more favourable rate, which those companies could not afford to grant.

"All this is going on while there is on every major street corner a branch of our great Canadian Banks, whose executive staff should have an adequate knowledge of local real estate values, (at least of local real estate values). Here are Billions of Dollars in-

vested in office facilities and personnel capable of handling secondary mortgage credit just as well as they handle the much more tedious business of granting credit under the Small Loan Act, which allows them to accept chattel mortgages on much more risky securities as furniture or cars. The Bank Act, however, does not permit the acceptance of the most stable security, namely Real Estate, for looking after legitimate, bona fide, secondary mortgage financing. The argument, that Banking does not go well with longer term mortgage credit, does not hold water as Banks recently expressed keen interest in first mortgage business in order to increase their Bank rate by 1% or more. Besides, some of those funds could be easily recovered through the sale of "recommended" mortgages over the Bank Counter at a lower interest rate while the Banks would keep such difference for collecting or even guarantying such mortgages to their clients. (I'm thinking not of those mortgages which are very small first mortgages and the question is why don't they increase the first mortgage and you get the answer it does not pay them in many cases to increase those mortgages because the interest rate is very low -- the old loan was 6%, the new loan would be 7½ so they have to pay ½% on the total mortgage, it would amount to 10% for the amount they need actually, for the difference. Secondly they would like a loan that they can pay off but if they put a bigger mortgage on they have a closed mortgage and they can't pay it off. So it pays them to go and get a mortgage which actually lies within the limits of a first mortgage but it's called a second

mortgage and they have to pay 12% plus expenses even if they get it from a loan company and this is too high for the risk involved. And there are many of those cases, legitimate demands for second mortgages.)

"As there is a great demand for first class second mortgages well below the 80% limits, interest rates for such mortgages could be reduced down as far as 8% per annum which would still create a very attractive source of additional banking business. In case that the Bank Managers or their Assistants should claim complete ignorance in appraising real estate values, outside appraisals could be obtained at nominal fees. Why has no one pressed yet for an amendment to the Bank Act accept the writer, who has tried in vain since the last 7 years to point out such necessity in public?"

MR. BELANGER: Who did you make your representation to?

MR. BENDER: I made the -- the Bank Amendment Act I made just to newspapers and to Central Housing to whom I asked to present this brief. In 1956 -- this is several years ago -- over to the Finance Minister, whoever was in charge. But I sent no brief to the Bank of Canada --

"N.H.A. for older homes. But why worry about the weaknesses of private mortgage credit if our Government is ready and able to step in whenever private enterprise fails to do the job. The extension of N.H.A. mortgages to older homes seems to be such an obvious solution that even the writer recommended it seven years ago, a long time before anyone else had this

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"genius" idea. But after having observed from a rather close range the dangerous side effects of "N.H.A. Financing", the writer has come to the firm conclusion that the three letters "N.H.A." stand for the three words "No Healthy Answer" to our economical problems. He has elaborated on this subject in greater details in an article called "N.H.A. A DANGEROUS BOOSTER DRUG", published in the "Property Owner", in March, 1961. One of the many idiosyncrasies of N.H.A. is the creation of two different price patterns for one and the same type of commodity depending whether it has received the blessings of the "N.H.A. Financing" or had to rely on ordinary institutional or private financing." (If you look through statements of apartment houses, (rest of aside inaudible) -- just depending whether this man is ready when Santa Claus opens his big bag or he was just caught between two elections or what have you.) "However, even the most enthusiastic supporters of the idea of "N.H.A. Financing for Older Homes" could hardly expect that the Government would extend "N.H.A. Credit" to all types of older homes in order to avoid such injustices. As no one has yet found the solution where to draw the borderline, private enterprise will just have to pull itself out by their own steam unless it wants to surrender absolutely to overall State Financing.

"Excessive high amortization payments"-- this is a subject which I did not publish before but -- it sounds silly but it's so important -- if you really look at the figures that I would really like you to pay attention to this.

"The spending power of owners of older homes is not only weakened by costly secondary financing but also by excessive amortization payments on first mortgages. As far as Institutional Loan Companies still consider loans on older homes, the amortization period for such mortgages is approximately 10 years only." (That means the house is worth nothing after 10 years, in the minds of the loan companies). "While the interest rate may be 7½%, the actual monthly blended payments would amount to 14% per annum." (I have a table here if you want to look at it). "Now it's obvious that such a high rate can make it impossible for the home owner to use his income power for the faster amortization of expensive second mortgage credit (he is so busy paying of 7%, he has no money left to pay off 12%) or the other necessities of life. There is no justification for such high amortization payments on first mortgages.

"Plumbing, furnace, roof, etc., are bound to be replaced periodically for the protection of the home owner. Other components like basements, floors, steps, and walls hardly depreciate at all. The land itself, amounting to about one-third of the lending value, rather gains in value over the mortgage period in any growing city. Many home owners are also constantly improving older homes by modernizing kitchens, bathrooms, etc. No wonder, therefore, that during the last 25 years mortgage loans, after their expiration, were increased beyond the original amount. During the mortgage period, however, the owners were faced with unnecessary financial burdens and sometimes had to

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borrow additional funds in order to look after their mortgage obligations. Drastically reduced first mortgage payments in conjunction with secondary bank financing at reasonable interest and amortization rates would make the extension of "N.H.A. Crdit" unnecessary and free enterprise could finally establish in all areas of real estate, an equal pattern of financing. Thus the great difference in property values created through preferred and non-preferred financing could be wiped out and normal trends in balances could be established. Only then, the cautious Buyer will once more be guided by the price alone and not by the way the property is financed. Only then he will be able to pay off a lower priced property within a reasonable time and free his income for the other essentials in life instead of burdening his grandchildren with an unpaid mortgage on a glamorous bungalow, which was only brought within the range of his income through fictitious, abnormally low monthly payments.

"Let us finally mention another problem in financing older homes to which very little public attention has been paid so far." (I don't know how much experience other people have had, but I had about 20 consultations in the last few weeks).

"There exists at present a growing danger of cancellation of fire insurances on older homes, especially of non-solid brick construction. Only a few non-tariff companies still accept those fire risks mostly for the sake of accommodating such agencies, which provide them with other "more attractive business". The hand-

writing on the wall shows, however, that even those companies will withdraw from this field as soon as their portfolio is overstocked with such type of insurances. The repercussions on obtaining mortgage credit on those properties are obvious. As also Fire Insurance Companies are not Public Utilities but operate under free enterprise, ways and means must be found to protect every home which gives decent shelter to our families with adequate fire insurance at all times. The introduction of an "Assigned Risk Plan" may be one of the answers. A better solution would be to allow such cancellation only if home owners refuse to carry out any necessary repairs to wiring, etc., in the interest of better fire safety.

"I hope that I have established at least one fact: This is not a topic which can be solved by Hush-Hush Columnists or by Good Doers with no knowledge of the tricks of the trade. What seems to be imperative is the appointment of a special commission composed of representatives of Federal and Provincial Governments and a handful of unbiased experts, who have no material interests, to make a thorough study of this rather complex field, which the writer could only touch upon in a very hasty manner. The final goal of any recommendations must be that lower and also middle class income groups, which contributed with their dimes and dollars greatly to the Capital Power of our great Banks, Life Insurance and Mortgage Companies, should be able to obtain their fair share in case of legitimate need for mortgage financing. Otherwise free enterprise will have failed

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Democracy."

MR. MacDONALD: I think this should be subtitled, Mr. Chairman, one of the most devastating condemnations of the free enterprise system and the most far-reaching efforts to try to save it from its own deficiencies.

MR. SEDGWICK: I'm a little handicapped in asking any questions because I only read it after I came in here and listened to it and it is a philosophical discussion. But the principle recommendations that Mr. Bender makes are drastic alterations to the Bank Act and drastic alterations in the N.H.A. system and a quite radical amendment to the Income Tax Act -- as to which this Committee has no power. And when you get away from those recommendations there isn't so very much left. There is one thing, Mr. Bender, and I say this to your Company, it is clear that one of the risks of second mortgages is the fact that the buyer, the mortgagee, can sell it without notice and I think steps are afoot to amend the Mortgage Act -- you may be aware of them -- so that that will no longer reside in the first mortgagee, he will have to give the second mortgagee notice and that will make second mortgages a little more attractive. Such legislation is proposed -- and that would seem to be about the only part of your brief -- it would be in the hands of the Provincial Legislature.

MR. BENDER: Well, the Provincial Legislature as far as Charters of companies working under the Provincial Charter. I think it is 66% of Provincial Charters, Dominion Charters are only in 15%. If any

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pressure can be exerted to companies to operate under the Provincial Charter then that would be something to concern us because this is a very important thing.

MR. SEDGWICK: I know the insurance companies are governed by federal charters (rest inaudible) I can't think that very many of the suggestions that you made that this Committee, being a Committee of the Legislature, could take any action on.

MR. BENDER: (inaudible)

MR. SEDGWICK: As far as risk of insurance, I had not thought it was so difficult to get insurance on household property.

MR. BENDER: On one street alone (rest inaudible)

MR. SEDGWICK: I suppose it's the thing applied to automobiles probably an assigned risk policy could be made to apply to houses.

MR. BENDER: What they do now, they have a whole group of inspectors -- they have an inspector go around to 100 properties a day -- if they find one that wasn't painted they put the report in to cancel fire insurance. They haven't even gone into the house. If a man has to do a hundred houses a day he has no time to go into the houses. And I had to plead with another company because I gave this company some apartment insurance business. They said unless you take something from me (rest inaudible) It shouldn't be. Actually I don't think the fire risk is greater because there was no claim made in all those cases. They just didn't like the houses.

MR. SEDGWICK: Mr. Bender, what happens in those circumstances to the mortgagee?

MR. BENDER: That's what I wanted to know. The mortgagee has no other rights than the owner has.

MR. SEDGWICK: He has no right of foreclosure?

MR. BENDER: But in the meantime he can foreclose the property which is not insured.

MR. SEDGWICK: Could you give the Committee specific addresses of properties --

MR. BENDER: (Inaudible) If I don't get kicked out by everybody, I give them to you.

MR. MacDONALD: Mr. Chairman, can I deal with this one point that Mr. Sedgwick has raised? On the possibility of an Assigned Risk approach -- I don't happen to have the details with me now, but I know a chap who has been drawing this to my attention and this is -- his suggestion is that the areas which are in effect, on which they are withdrawing the insurance are so large that I doubt whether you could operate an assigned risk.

MR. BENDER: (Inaudible)

MR. MacDONALD: For example, my information was that much of this part of the City here, for example, is now wiped out. Doesn't Bloor Street from east and --

MR. BENDER: Yes.

MR. MacDONALD: They won't insure or they are in the process of withdrawing for the reasons

that Mr. Bender rather graphically put -- because of some horse trading that is going on behind the scenes with somebody who is in a position to force them to take that as compensation for --

MR. SEDGWICK: (Inaudible)

MR. BENDER: People who are inspecting probably 100 properties a day and people will not be home and there are requisitions made by the Building Department. Inspectors have not looked into the inside. This is what bothers me because at least if they tell an agent about a situation to put an insurance agent into, they should have the courtesy of accepting their investigating. There are legitimate cases where there is rubbish in the basement or where the wiring is very bad (rest inaudible) -- but I wouldn't even mind if they would up the rate because it's a negligible amount -- (next part inaudible) -- but they don't do it that way -- (rest inaudible).

MR. MacDONALD: Mr. Bender doesn't want me to make political speeches and I will try to foreswear it, Mr. Chairman, but what, in effect, you are having now is that the fire insurance companies are unloading very big chuncks of coverage that they have held because it is a high risk area. As Mr. Bender says, they are not even considering the proposition of higher rates. They are just unloading it. As I have been told, and Mr. Bender confirms it, it's almost a designation of a block -- just like this --

MR. BENDER: Pardon the interruption, but so far one insurance company -- I don't mention --

even refused loans in districts where the general trust found it desirable to put up mortgages. It doesn't make sense.

MR. BELANGER: What is the purpose behind it?

MR. MacDONALD: They are unloading what they consider a high risk area. It's not an uncommon practice. I mean the practice of not maintaining health insurance or hospital insurance on somebody who gets over 65 years of age. Senator Roebuck one time hit the headlines because when he got to 65 the company wouldn't continue his policy that he had held for 30 or 40 years because presumably after 65 this is a general high risk area. Now the same kind of practices emerge in the fire insurance field. This is a high risk area so out it goes.

MR. BELANGER: (Inaudible)

MR. SEDGWICK: The building code has nothing to do with it.

MR. BELANGER: What I am talking about, Mr. Sedgwick, is in some of these old properties the building inspector goes in there and says, "Look here, if you don't make certain repairs in this thing we are going to tear down the place", and that's it.

MR. SEDGWICK: Then, of course, the problem of insurance disappears. Mr. Bender is talking about the houses that are not condemned.

MR. BENDER: Not condemned.

MR. SEDGWICK: Yes, not condemned. Then they present no problem, they are torn down, they are

not insured, they are uninsurable, they are being replaced by empty land, of course.

THE CHAIRMAN: Except, Mr. Sedgwick, the thing is going from bad to worse because as Mr. Bender just said you even have a company that is willing to lend money -- for example to build a new home in what might have been a condemned home area -- but the insurance company, because it is in the block they are clearing out of -- and by a block it may be a square mile in the heart of the City --

MR. BENDER: They will say, "We don't mean your house, we mean the house next door".

MR. SEDGWICK: And consequently a fire risk to your house. I've never heard of it before.

MR. BENDER: That's where the State comes in, it has to come in, to allocate this to each company to a certain extent.

THE CHAIRMAN: Did any of these companies ever tell you that they had too many homes insured in that --

MR. BENDER: Yes. On ( ) Avenue for instance, in the east end -- ( ) Avenue is a very nice middle-class, workingman's area, mostly brick homes -- but they had some record somewhere that there were some cranks --

THE CHAIRMAN: Some what?

MR. BENDER: Some cranks, some firebugs around -- firebugs apparently only live on certain streets -- I don't know. (Laughter) (Rest inaudible)

MR. SEDGWICK: Would you run an Assigned

Risk, in your submission, would you run it about the same way the Assigned Risk is operated in automobile insurance?

MR. BENDER: Well I would have to raise rates a little more -- in the automobile business it costs ten dollars --

MR. SEDGWICK: I wasn't speaking about rates, I'm thinking about every company having to take so much so no one company would hold all the --

MR. BENDER: I can't see any other way unless you want to incorporate a Provincial company. I think that would be the best way. It may take new methods of progression by the way of just sending certain proposals -- they just say, "No thank you very much, we don't -- and then who is left, one company may be left and they have to take all this. That is where the danger comes in. That has to be stopped by allocation. (Rest inaudible)

MR. SEDGWICK: I'm not sure of that. I'm a member of the Committee on Legislation which considered the matter -- I think an attempt is going to be made to meet this admitted evil of the sale by the senior mortgagee without any notice to the junior. I think if you can compel to notify everyone who is on the title and give them reasonable notice -- it is, of course true, that if you give the second mortgagee too long a period in which to redeem you are going to make it more difficult to get (rest inaudible)

MR. BENDER: There should be two different periods. The one period for putting the

mortgage into good standing -- that's all that the bona fide mortgagor is interested in, unless he wants to collect his bonus a little faster -- and the second period is to pay off the old (inaudible). But there is only one month for both.

MR. SEDGWICK: Yes, I think there is. It is hoped that there will come some acceptable formula which will apply to all mortgages whether they now contain it or not.

MR. BENDER: What people don't get away with. They take the Bailiff -- they go a strictly legitimate way -- the Bailiff puts it in the paper with sealed -- nobody knows that the bid should be sealed -- so mostly those sales, auction sales we call it, are aborted because nobody comes (rest inaudible). So they are mostly aborted. And after they became aborted then there is reselling so the mortgagee can sell it at any reasonable price -- and you can argue about what a reasonable price is, because the price is composed of down payments, you can say a reasonable price is $5,000 cash or $10,000 (next few words inaudible) -- what is a reasonable price? So he sells it for $5,000 cash. And the mortgage is wiped out. This is one of the things which -- you see, people have not a lot of money. There are a lot more schoolhouses than there were ten years ago and now my clients come and want first mortgages -- the same characters who wouldn't have looked at the place ten years ago. And that affects the interest rates for second mortgages, so we have to open the market.

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THE CHAIRMAN: Mr. Bukator, do you have any questions?

MR. BUKATOR: We might have to keep Mr. Bender here til midnight, I think. One of the many thoughts that went through my mind, Mr. Bender, I too am in the real estate business, and I know of similar deals to the one which you describe here. I'll give you one of the last ones which came to my attention. A man borrowed $4,500 for 2 years and he signed a second mortgage for $6,000 and paid it off in two $3,000 payments in two years time at 7%. Now, right off the bat it was ordered for six and totalled for ten, which made it 40% right off the top, not calculating interest. I realize everybody has earned their money, I'll go along with your reasoning there, --

MR. BENDER: That can also be overcome. I don't know -- maybe this comes under the legislature of the Province -- certain clauses in case of bonus mortgages whereby the mortgagor should be entitled to pay off at any time at the same proportion the borrower is being paid for. (Rest of statement inaudible) German immigrants, for instance, hate mortgages. I don't know how they did it, they paid off mortgages entire -- you wouldn't believe where they got the money from -- those poor people should have had the privilege, should have had the advantages of those premature payments by giving the same bonus back which was (rest inaudible). There is one thing for which the legislature should do a good job, which I mentioned in the brief, is the misrepresentations.

MR. SEDGWICK: I suggest to you that that comes under the criminal code.

MR. BENDER: Well, it may come under the criminal code -- we had cases and we went to the Detective Sargeant -- do you think the Detective Sargeant knows anything about bonus mortgages? He was lost, he didn't know how to tackle the thing and didn't even go (rest inaudible). I think it just should be like the sale of any other security because we have a lot of small investors, old widows who like to buy second mortgages -- they should know what they are buying. This can be done.

MR. BUKATOR: Mr. Bender, in your brief you mentioned two or three ways to handle this problem. I like that phrase of yours about this genius idea of yours some seven years ago, that N.H.A. money for older homes. I never met you before but I mentioned it in the House two or three years ago. I could see where people could get their money out of their old homes through an N.H.A. loan, pay it off in full and then go buy the home that they would like to live in after many years of having their own home paid off. It would be quite a boom to the building business. I don't know where the thought originated, but it's a good one. We are crossing lines -- as you say we are in the federal field now --

MR. SEDGWICK: The N.H.A. is a federal field --

MR. BUKATOR: Since we have touched on that a little bit, I might say that the V.L.A. for

which it was originally set up for, to assist the Veterans, I think they have just given a few people a lot of good jobs -- I think that these people with V.L.A. money, at least who applied for V.L.A. money at a low rate of interest, some of them are still waiting and have been waiting for months to complete a deal. They could have gone to war and come back again and the transaction would not be finished. I hope that your thinking is not along that line. You say better mortgage money in the bank; I suggest that the government go into the second mortgage business to help these people, and get away from these loan sharks.

MR. BENDER: Well, N.H.A., you see --

MR. BUKATOR: Just to make this one point, Mr. Bender. We have touched on everything but -- you have gone to other countries and have picked up money to invest in Canada. To the best of your knowledge what are the best yields that some of your customers have got? From investing their money here -- and I realize it is not against the law --

MR. BENDER: They received, I told you, they received the first three or four years 15% of their net (next part inaudible) -- and that was all done in my office. They got 15% and then down to 12, 10 -- we have a reducing rate -- but it was still more than some cases of bona fide mortgage credit at 15. 12% is still a very high rate but it is obviously considered very acceptable today and I still think it shouldn't be 12% in all cases.

MR. BUKATOR: Well, then this was just

a case you picked out of the air?

MR. BENDER: Oh, I just made it up, but this is a very conservative one.

MR. BUKATOR: I was going to say, these have not gone through your office, similar --

MR. BENDER: Surely.

MR. BUKATOR: You have had many deals similar to this?

MR. BENDER: Certain amount of mortgages where -- the only thing I didn't buy second bonus mortgages of the first mortgage -- I wasn't foolish enough to do that. I bought second of the conventional because I knew the price would be less to trade it, so this can be varied according to the (rest inaudible).

MR. BUKATOR: Percentagewise, what would the investor get out of a deal like this?

MR. BENDER: Today?

MR. BUKATOR: Yes, out of a deal similar to this?

MR. BENDER: Today he would get -- today he would get one-third less than he got seven years ago, but this is the situation we are at the mercy of private capital. We can't force private capital (rest inaudible) --fear of inflation, chances to make a fast dollar in the stock market, other enterprises can pull out all the private money. This is a very unusual situation in Canada where private mortgage funds go directly into homes. It wasn't there 20 years ago, it was all done by trust companies and the owner could make the mortgage at a legitimate rate. And he didn't sell it, he kept it.

MR. BUKATOR: Well, since we are on mortgages I might emphasize again, Mr. Chairman, that the government or the banks should go into second mortgages by all means, and N.H.A. loans on old homes would clear quite a problem up. A man in a low income bracket would come to me and buy a home for himself. I have no other questions.

THE CHAIRMAN: Mr. Reilly, do you have anything to add?

MR. REILLY: No.

THE CHAIRMAN: Mr. Irwin?

MR. IRWIN: Mr. Chairman and Mr. Bender, a matter which has interested me in this whole question since we began sitting in this Committee, is the possibility of creating a new mortgage market -- you mention it on page 5 -- is there any good reason why, let us say for example, the Mortgage Brokers Association might not create a mortgage market operating --

MR. BENDER: I thought of that -- by the way, before I answer your question, I haven't found yet any tariff for mortgage broker rates -- I think the law has not established any terms for brokerage business. I thought of having it equivalent to the so-called Co-op listings, Co-op listings not only of houses but Co-op listings of mortgages reaching a bigger market. This is a very tough problem because of the time limit involved. A man wants to get rid of his mortgage very fast. By the time he takes it down to some exchange there is too much (next words inaudible). But it could be feasible.

MR. IRWIN: Well, I haven't thought about this deeply at all, just some random thoughts on the matter. Would it be possible to grade mortgages like you might eggs? They could be brought to a central mortgage market, graded as A,B,C or D, and there would be established, every day perhaps, a going rate for those different grades of securities? I would think the mechanics could be worked out. It might be difficult to do so, but I guess the mechanics of every market since early times have been difficult to work out in the beginning, but if we could somehow arrive at this grading and the mechanics of the thing of establishing a market, one would think that this would automatically take care of the emergency that you mentioned as being a difficulty. A person, if there were a market established, one would think one could conceive the need for disposing of a mortgage in the morning and have it by eleven o'clock the same morning.

MR. BENDER: If you have small affidavits attached to each mortgage, signed and sworn by a solicitor, the purchasor and the vendor that this was a true conduct of the transaction, maybe you can make them respectable, but this is a first step because I don't believe anymore any down payment anybody tells me because I know from reselling older houses that we are selling them a scandalous down. I don't believe (rest of sentence inaudible). And you can't catch it by a criminal code because there is actually a dummy, you will see the transfer is made was $1300 to a dummy, even the lawyer doesn't know. You see, the person received

the deposit of the whole amount of down payment. He keeps it. And there is no connection between the real estate broker and the mortgage broker -- that's another thing I pointed out in the matter of insurance -- that any real estate broker should be a mortgage broker and any mortgage broker should be a real estate broker and be subdued to the same Brokers Act, not the Mortgage Brokers Act, the Real Estate Act, having to give complete accounting. And there are more commissions made, even by the same real estate broker acted as mortgage broker made in selling the mortgages than real estate. But if we can have a complete full picture of each transaction, then we can have a market, otherwise nobody would believe.

MR. IRWIN: Thank you, Mr. Bender.

MR. BELANGER: I was rather surprised to read, on page 4 of your brief, I am wondering whether this is a very common practice. You say, "The real danger for the second mortgagee lies, however, in Power of Sale Proceedings by the first mortgagee in which case no notice has to be given to the second mortgagee and the property can be sold at any reasonable price without the knowledge of the second mortgagee. It is obvious that such lack of legal protection is sufficient reason for any conscientious lawyer to advise his client against such investments". Is that a common practice? The second mortgagee not being advised at all?

MR. BENDER: It is a common practice. After two months, after eight weeks even the owner doesn't have to be notified. The mortgages can be bought up in two months and nobody has to be notified, not even the

owner. After ten days all that you have to do to conform to the law is put a little notice on the house door. You can't expect the mortgagee to run around looking (next few words inaudible). But even if he was given notice after four weeks, you see -- you can bear me out but I don't think he has the right to put the mortgage in good standing. He has only right to pay off the capital.

MR. SEDGWICK: There is the right of redemption.

MR. BENDER: That is the difference between foreclosure and the policy of -- how the policy applies to law, I don't know. But at least he has a release in foreclosure, he can take his time, he's got ten days to pay off the arrears or six months to pay off the whole amount. Even if the new law will change things and give him notice of four weeks, he still won't have the relief of six months detention, which would put it in the same footing as a foreclosure. If you know the business you will come across the most ingenious schemes to close the policy out. The first mortgagee will get together with the mortgagor and say, "Listen, you haven't got anything in your property anyway, you have no equity. I'll give you $100 to move out". And he needs vacant possession to sell -- nobody will buy a place with somebody living in it because it's a very complicated procedure to get somebody out and the landlords can't act (rest of sentence inaudible). At any rate he makes a deal to get him out, the house is empty, it's ready for (inaudible).

The mortgagor has got his $100 or $50 and the first mortgage is (rest of sentence inaudible). He needs vacant possession. The whole business has deteriorated to such an extent that the second mortgage is not any more either respectable or it's full of mistrust and that is a very poor situation.

THE CHAIRMAN: Mr. Sandercock?

MR. SANDERCOCK: Mr. Chairman, I was interested to learn that some of the insurance companies are withdrawing from insuring properties that weren't good risks. I never heard tell of that before. It's something new to me. I know that we have fire prevention weeks and the firemen make periodical checks of premises to check the wires and rubbish left around. Apparently -- it's something new to me, I didn't know it existed.

MR. BENDER: Well maybe in smaller -- I don't know -- it's easier (next part inaudible) -- than in a smaller place where everybody knows everybody.

MR. BUKATOR: They do it in smaller places too. They will come into an establishment such as a restaurant, the inspectors for the insurance company, and they will look over the suction band around the kitchen and see there is grease hanging on to it and they go down to the cellar and find that some of the circuits are overloaded. They are going to be very fair with you, some of these insurance companies, they will give you 30 days in which to clean that mess up. And if you don't -- well, I'm not saying if it's right or wrong -- I'm just telling you how they go about it. If you don't clear these situations up in a month's time,

then they cancel your insurance. And if they cancel your insurance you can't get it from somebody else. You're out of luck. Now this happens in --

MR. BENDER: I went into those houses -- I thought something must be wrong. I looked over the wiring, I looked over basements (next part inaudible). They are looking at the maturity date of the policy now and whether those policies are located in any districts which might have some stigma. Then they send their young boys out for $50 a week and they have to cover a lot of territory and they hand in their reports. (Next sentence inaudible).

MR. REILLY: Mr. Chairman, I wonder if Mr. Bender would like to tell us whether along these cancellations, whether there are any brick homes in the City of Toronto that had cancellations?

MR. BENDER: Yes, brick ones.

MR. REILLY: Brick ones?

MR. BENDER: 24 Colgate -- if you want to have others I give you fist full -- George Street, a house, brick house (next part inaudible)-- but there is no more fire hazard in a non-brick home, that's a wrong conception, but fire most starts in the (inaudible)

MR. REILLY: Except that in the City of Toronto you can't get permission to build a frame home, it's against the by-laws.

MR. BENDER: No, we are talking about existing frame homes and there are plenty of them and those people are punished by insurance and by mortgage credit. The man who wants to live frugally and not in

the glamorous bungalow where he can bury himself for 35 years and I want you to project your thinking -- the next 25 years a large segment of people have to pay the same amount every month regardless of whether their mortgage is 10 or 4 or 3, unless they want to pay for another 15 years longer, with reference to the economy, to the consumer credit, to the consumer (next words inaudible) -- it's a large segment of people are completely preoccupied with the same annuity. Those people want to live in a modest home, and they are very nice people, they keep their house very beautiful, are penalized by mortgage and insurance.

MR. REILLY: Mr. Bender, is it not true that the majority of cancellations is on homes of older homes and of frame homes?

MR. BENDER: Well I would say that they are along the middle class or the lower priced homes. But this doesn't make justice out of injustice.

MR. REILLY: No, but it is a fact. With your experience, Mr. Bender, how common is this practice of title insurance now?

MR. BENDER: It's not very common at all. There are a few companies who have a solicitor who (rest inaudible).

MR. REILLY: So one of your recommendations is that it would be transferred (rest inaudible)

MR. BENDER: If title insurance would be common -- I don't want to be curt to solicitors because it would take away this source of income -- but if title insurance would become more popular it only

would make sense that it should be transferred. When you think that one little property has been searched over and over by 20 different lawyers --

MR. REILLY: But he doesn't carry it over (rest inaudible)

MR. BENDER: Well it should be --

MR. REILLY: He's responsible.

MR. BENDER: He's responsible, yes. Sometimes they don't check it all over, but that's their tough luck. (Next sentence inaudible)

MR. REILLY: Well it's strange when you were telling us that you invested money for -- Swedish capital -- and you had 15% return and then you learn of these human hardships of which you have been --

MR. BENDER: You see, as I pointed out in this brief, in the beginning everything was hunky-dory you see. Every immigrant not only made money but he housed other immigrants who paid him $10 per room and the house was packed and that is how they paid it off so fast. (Next sentence inaudible) But then came the ones who were unemployed or they were sick or their wife was pregnant -- you know --

MR. REILLY: You don't have foreign capital invested now?

MR. BENDER: Well, I'm selling out -- very few (Laughter). I'm buying now the apartment buildings -- that's what we do now. But I don't feel sorry for apartment owners because they had to take that gamble when they bought it. But I feel sorry for men --

MR. REILLY: The same thing is still there, a small or a large investor.

MR. BENDER: The principle is the same only it's somebody who knows what he is doing or thinks he knows what he is doing. People ask me, "Why do you try to kill the goose that lays the golden egg" -- maybe some of you may ask me that. I've lived through two revolutions, through financial corruptions and social developments and I have been 15 years doing real estate in the Old Country and 22 years here, since Hitler and I decided to depart from each other. And unlike you lucky born Canadians who haven't been through those things I know that any profits made from an unhealthy, nonsensical, stupid situation (rest of statement inaudible). Mortgage credit is a field where everybody (rest inaudible)

MR. REILLY: It's a temporary advantage now.

MR. BENDER: Yes. But it's not an advantage. (Rest of statement inaudible).

THE CHAIRMAN: Mr. Letherby, have you any questions? No further questions?

Well, thank you very much, Mr. Bender. Gentlemen, this meeting is adjourned. We meet tomorrow morning at -- tomorrow afternoon at 2:00 o'clock in Room number 2

---MEETING ADJOURNED UNTIL 2:00 P.M. NOVEMBER 19, 1963.